

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Writ Petition No. 1496 of 2006 (M/B)

Dilshad
S/o Sri Mofeek Ahmad
R/o 74, Shekhpuri Roorkee
P.S. Gang Nahar, Roorkee
District Haridwar Petitioner

Versus

1. State of Uttaranchal.
2. District and Sessions Judge
Haridwar
3. Sanjay Tyagi, S/o Late Jaipal Singh
R/o No. 90A, Ashok Nagar, Roorkee
P.S. Kotdwarli, Roorkee
District Haridwar. Respondents

Hon'ble Prafulla C. Pant, J

Heard Shri Pawan Kumar, learned counsel for the petitioner and learned A.G.A. for the State and perused the papers on record.

2. By means of this petition, the petitioner has challenged the proceedings in the criminal complaint case No. 892 of 2003, instituted by respondent No.2 – Sanjay Tyagi, against the petitioner, relating to offence punishable under Section 138 of Negotiable Instruments Act, 1881.

3. The sole objection of the petitioner before the trial court, revisional court and this Court is that the complaint is barred by time on the ground that from the first notice, given by the complainant, the complaint was not filed within one month. The limitation if seen from the averments of the complaint, filed by the complainant the same is not barred by time. The

complaint does not disclose any notice prior to the one mentioned in the complaint. The petitioner has failed to show copy of notice, if nay, received by him, earlier, before the trial court or the revisional court or before this Court. The averment in the affidavit of the petitioner is this that his wife told him that postman, brought some notice in the house. It is not clear what was the letter/post, brought by the postman.

4. In the circumstances, there is no ground to interfere with the criminal complaint case No. 892 of 2003, pending before the Judicial Magistrate, Roorkee. This petition has no force. The same is dismissed in limine. (All pending applications in this, stand disposed of).

Dt. 27.09.2006

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(Prafulla C. Pant, J.)